IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10405 of 2004

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE H.B.ANTANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAILENDRASINGH R.GOHIL - Petitioner(s)
Versus
GENERAL MANAGER - Respondent(s)

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Appearance :
MR PH PATHAK for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1,
MS MEGHA JANI for Respondent(s) : 1,

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE H.B.ANTANI

Date : 29/11/2006

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

This is a petition filed by the petitioner seeking appointment on compassionate ground. It was admitted way back on 31.8.2004. Today it is listed for the third time as per the endorsement made by the Office on the Board. When the matter was called out at 11.45 am Shri Parmar for Shri Pathak prays for time. The request was refused.

Petitioner has filed this petition under Article 226 of the Constitution and challenged the impugned Judgment and order dated 22.12.2003 passed by the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad (for short “the Tribunal”) dismissing OA No.93 of 2003, filed by the petitioner – applicant seeking appointment on compassionate ground on the death of his father Ranjitsingh Gohil, who was working as “A” Grade Special Guard with the Railways. But, on medical ground he was declared unfit by Certificate dated 29.5.1998. Accordingly, he was made to retire on 29.5.1998 and thereafter died. On his death the present petitioner has applied for appointment on compassionate ground. The request was refused, therefore, he had approached the Tribunal by way of OA No.93 of 2003. The said OA was rejected by the learned Tribunal by its impugned Order dated 22.12.2003. The same is challenged in this petition.

From the Judgment of the learned Tribunal it is clear that after considering the facts and circumstances of the case the learned Tribunal rejected the Application filed by the petitioner seeking appointment on compassionate ground. For

dismissing the Applicatoin the learned Tribunal also relied on several Judgments of the Hon'ble Supreme Court as well as the High Court. This petition is labelled as petition under Article 226 of the Constitution, but strictly speaking, it is a petition under Article 227 of the Constitution, the scope of which is vary narrow and limited. Unless the jurisdictional error is committed by the learned Tribunal, this Court will not interfere in such type of matter.

In view of the above discussion, this petition fails and is hereby dismissed. Rule discharged. No order as to costs.

(B.J.SHETHNA,J.)

(H.B.ANTANI, J.)

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